



Portage County Circuit Court Rules

BY THE COURTS:

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Circuit Judge – Branch 1

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Circuit Judge Branch 2

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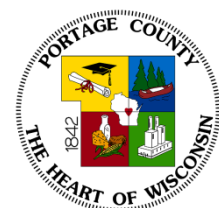


Table of Contents

(Ctrl+click to follow links)

RE: COURTROOM DECORUM	5
RE: COURTROOM SECURITY.....	7
1. Definitions	7
(A) Threats.....	7
(B) Security	7
2. Reporting.....	7
3. Court Security Officer.....	7
4. Training.....	7
5. Weapons in Courtroom.....	8
RE: PROCEDURAL RULES.....	9
1. Jury Trials	9
(A) Cancellations	9
(B) Voir Dire Examination	9
2. Appearance of Attorneys at Time Jury Returns Verdict.....	9
3. Pretrial Conference	9
4. Duty of Attorneys With Respect to Omission or	10
Errors in Instructions.....	10
5. Consolidation of Cases	11
6. Continuances.....	11
(A) Requests.....	11
(B) Permission	11
7. Discussion of Admissibility of Evidence.....	11
8. Service on Opposing Counsel	11
9. Limitation of Arguments.....	11
10. Borrowing Court Files Regulated.....	12
11. Request for Instructions	12
12(A) Written Submissions/Submission of Trial Briefs.....	12
12(B) Faxed Documents	13
13. Stipulations to Hold Open Case Files.....	13
14. Exhibits	13
(A) Receipt of Exhibits in the Courtroom	13

(B) Storage of Exhibits During Trial	15
(C) Exhibit Coordinator	16
(D) Managing Exhibits After Trial	16
15. Electronically Recorded Proceedings	19
16. Foreclosure Mediation	20
17. Preliminary Hearings:	21
RE: FAMILY COURT	21
1. Guardian Ad Litem Procedures:	21
(A) Appointing a Guardian ad litem in Family law Actions:	21
(B) Deposit and Billing:	22
(C) Monthly billing and notice to the Court:	22
(D) Final Order Approving Fees of Guardian ad litem:	22
(E) Payment and Collection of Fees Owed:	22
(F) Subsequent Family Actions:	23
2. Domestic Abuse and Harassment Restraining Orders	23
3. Mediation	23
4. Receiving and Disbursing Fees	25
5. Parents Forever Seminar	26
6. Interim Disbursement Orders	26
7. Confidential Information	26
8. Certificate of Readiness	26
9. Family Law Information Center	27
(A) New Divorce Actions	27
(B) Post Judgment Divorce and Paternity Actions	28
(C) Availability	28
RE: DE NOVO HEARINGS; PROCEEDINGS BEFORE COURT COMMISSIONER	29
RE: SMALL CLAIMS COURT	29
SMALL CLAIMS: SUMMARY JUDGMENT MOTIONS	32
Summary Judgment Process	33
RE: JUVENILE COURT	34
1. Victim Witness Coordinator	34
RE: JUROR SERVICE	34
1. Service	34

RE: COMPUTERIZED RECORD KEEPING	34
1. State Bar ID Number.....	34
RE: PROBATE.....	35
1.Electronic Signature	35
2.Closing Certificate of Fiduciaries	35
RE: UNPAID FINES/FORFEITURES	35
RE: SCHEDULING OF COURTROOM BY OUTSIDE JUDGES.....	36

IN RE: CIRCUIT COURT RULES**ORDER**

It is hereby ordered that the following rules are adopted for all Branches for Portage County subject to further order of the court.

RE: COURTROOM DECORUM

1. Court shall be formally opened each day upon which court business is transacted, either by the bailiff or the Clerk of Courts.
2. As the Judge enters the court room the bailiff or Clerk of Court shall require all present to arise and stand. When the Judge has reached the bench the bailiff or the Clerk of Court shall say "Hear ye! Hear ye! Hear ye! The Circuit Court for the County of Portage is now open. Silence is commanded." All shall be seated and the business of the court shall proceed. Proper order and decorum shall be required of all in attendance at the court.
3. In the recessing the Judge shall announce: "The court is now in recess."
4. When the trial is to a jury, the jurors shall take their places in the Jury box before the Judge enters the court room.
5. The flag of the United States shall, at all times while court is in session be displayed at, on, or in close proximity to the bench, on a standard to the right of the Judge.
6. Lawyers may never lean upon the bench nor appear to engage the court in a manner which would lessen the dignity of the proceedings in the eyes of the Jury and Public.
7. Lawyers shall examine witnesses from a position at the counsel table except when handling exhibits, unless a lectern is provided by the court, in which case the examination shall

be either from said position at the counsel table or the lectern. Lawyers may either stand while examining a witness from the counsel table or remain seated there. In no case shall a lawyer crowd the witness stand in examining a witness.

8. Lawyers should not, in addressing the jury, crowd the jury box.

9. Lawyers, during trial, shall not exhibit familiarity with the court, witnesses, jurors or opposing counsel and generally the use of first names shall be avoided. Adult females shall be addressed with the title Ms.

10. All lawyers and court officers shall wear coats while in attendance upon the court, provided judicial discretion may be exercised otherwise in extreme situations.

11. Lawyers shall advise their clients and witnesses of the formalities of the Court, and seek their full cooperation therewith. (It is not contemplated the lawyers try to get clients and witnesses to wear coats but some advice to clients and witnesses as to general formality might be advisable.)

12. Witnesses shall be examined with courtesy and respect, and their good faith presumed until the contrary appears.

13. The swearing of witnesses shall be an impressive ceremony and not a mere formality.

14. In jury cases which are disposed of upon a motion for nonsuit or directed verdict, the judge, in dismissing the jury, should briefly explain the procedure and why a verdict was unnecessary.

15. In criminal cases, the defendant shall stand with his attorney before the bench at the time of arraignment, and at the time of passing sentence.

16. The Judge shall wear a robe while presiding on the bench, provided that judicial discretion may be exercised otherwise in proper situations.

17. There shall be no smoking or eating in the court room at any time. Drinking water may

be available to jurors and participants in the trial. There shall be no smoking in jury rooms.

RE: COURTROOM SECURITY

1. Definitions .

(A) Threats are defined as written or oral declarations of an intention to inflict injury or pain upon individuals employed by or involved in the court system. Any threat shall be treated as serious.

(B) Security incidents are episodes of conduct in the courts in which the physical health or safety of participants or the physical property of the courts are put at risk.

2. Reporting. All threats and security incidents are to be immediately reported personally or by telephone to the sheriff's office.

3. Court Security Officer. The sheriff is directed to designate an officer to serve as a court security officer. The court security officer shall be responsible for:

- a. Referral and investigation of all threats and security incidents.
- b. Training of court personnel in handling threats and security incidents.
- c. Making recommendations to maximize court security in the future.

4. Training. Upon hiring, every employee (including elected officials) shall be trained in the policies and procedures of handling threats and security incidents, including the use and completion of the report form. Refresher training shall be scheduled for all court employees. All training shall be coordinated by the circuit judge, clerk of court, and court security officer. To the extent possible, such initial and refresher training should include the following:

- a. The court's policies and procedures concerning threats and security incidents.
- b. The physical layout of the courts and escape routes from courtrooms and court

offices.

- c. Recognizing when a threat is being made.
- d. Responding to a bomb threat.
- e. Responding to a hostage situation.
- f. Techniques in remaining calm and avoiding panic during a stressful or potentially dangerous incident.
- g. Techniques in responding to threats and security incidents in such a manner as to defuse the danger of the situation without placing the individual at physical risk.
- h. Techniques in enhancing a person's personal safety either in the courts or elsewhere.
- I. Telephone protocol when a threat is being made over the phone.
- j. Handling irate or abusive individuals in person or over the telephone.
- k. Knowing when to contact law enforcement because of immediate concerns with a "panic button" rather than by telephone.
- l. Handling threats that are made away from the courthouse.
- m. Gathering evidence for potential prosecutions.
- n. Using the threat/security incident report form.

5. Weapons in Courtroom.

All certified law enforcement officers shall be entitled to carry a weapon in the courtroom while acting in their official capacity and with lawful authority. No other person shall go armed with a dangerous weapon in the courtroom.

(Amended May 14, 1996)

RE: PROCEDURAL RULES

1. Jury Trials .

(A) Cancellations

Settlement negotiations shall be completed and approved by the Court two work days before trial. The parties shall notify the Court of settlement by noon of the second work day before trial (e.g. if a jury trial is scheduled for Monday morning, it must be settled and the Court so notified by noon on the previous Thursday). Failure to follow this rule subjects, the offending party(s), and/or their counsel, to the imposition of the costs.

(Amended June 14, 2007)

(B) Voir Dire Examination

In the selection of a jury for the trial of an action, the Court shall inform the voir dire panel as to the cause, parties and counsel, and the nature of the action, to the end that they may be sufficiently informed to answer questions touching upon their qualifications to act as jurors. The Court shall next ask questions pertaining to the qualifications of the jurors, and the parties or their counsel shall then ask questions pertaining to the qualifications of the jurors.

2. Appearance of Attorneys at Time Jury Returns Verdict

After the jury has retired to deliberate upon a verdict in a civil action, the Court shall state on the record, in the presence of counsel for all the parties, that it will be in session or will sit between stated hours for the purpose of further instructing the jury or receiving a verdict, and that if any counsel is not present at such time or times, his presence will be deemed waived.

3. Pretrial Conference

A pretrial conference shall be held in all civil jury actions. A pretrial conference shall be attended by the attorney in charge of the trial or, with prior approval of the Court, by an associate

attorney having authority to bind the trial attorney, and the attorneys shall have their clients or an authorized employee of their clients present, or in lieu thereof, shall have express authority to bind such clients as to all matters upon the pretrial agenda, including settlement. Each attorney shall furnish to the court at the pretrial conference, with copy thereof for opposing counsel:

(A). A typewritten statement succinctly describing the kind of action, the issues involved, and a brief summary of the factual situation as regards the cause of action or defense, and

(B) In personal injury actions, a typewritten itemized list of the claimed special damages and copies of all medical reports.

(C) Proposed jury instructions and jury verdict.

(D) A list of proposed exhibits.

(E) A statement of the number of witnesses expected to testify and the probable time requirements.

The unexcused failure to appear at a scheduled pretrial conference may, within the discretion of the judge conducting such pretrial conference, subject the defaulting party to dismissal of the action, imposition of costs or other sanctions within the discretion of such judge.

4. Duty of Attorneys With Respect to Omission or

Errors in Instructions

Immediately after the jury retires, counsel shall call to the courts attention obvious omissions or inadvertent errors contained in the instructions, in order that appropriate and timely correction may be made by the Court.

5. Consolidation of Cases

All cases arising out of the same transaction or the same act or acts of negligence may, on motion of any party, or on order of the Court on its own motion, be consolidated for the purpose of trial.

The foregoing rule for consolidation shall not apply when it appears to the Court that application thereof would work manifest injustice to any party.

6. Continuances

(A) **Requests** for continuances shall not be made on an ex parte basis. Consent of opposing counsel to a continuance will not be recognized as per se warranting the continuance.

(B) **Permission**. When an attorney has entered an appearance in a case, he or she may not withdraw without permission of the Court. (SCR20:1.16(c)) (Amended June 27, 2012)

7. Discussion of Admissibility of Evidence

Counsel will not be permitted to argue or comment upon the admissibility of evidence during the trial of cases except upon leave first granted by the Court.

8. Service on Opposing Counsel

Unless the Court shall otherwise direct, before submitting to the Court any proposed order, finding, conclusions of law, or judgment a copy shall be submitted to opposing counsel. The foregoing shall not apply to orders to show cause.

9. Limitation of Arguments

Within reasonable discretion, taking into consideration all the evidence produced at the trial, the Court may limit the arguments of counsel as to the time thereof. Counsel shall be advised of such limitation prior to the commencement of arguments.

10. Borrowing Court Files Regulated

No court file or paper may be withdrawn from the Clerk of Courts Office, except by a judge or by authorized court personnel for delivery to the judge's office or the court room.

(Amended June 27, 2012)

11. Request for Instructions

Requests for instructions shall be served on opposing counsel and submitted to the Court 48 hours in advance of at the pretrial conference unless the trial judge otherwise permits. Any non-standard instruction shall be on a separate sheet and each shall have noted thereon the citation of authorities relied upon to sustain such instruction. When an instruction is requested from Wisconsin Civil, Criminal or Juvenile Instructions it may be cited solely by number unless modifications are requested. Any modification shall be submitted as above.

12(A) Written Submissions/Submission of Trial Briefs

(1) Any party or attorney shall file all original briefs, memorandums of law, written motions, and summary judgment motions in the office of the Clerk of Courts, and shall deliver a copy of any such written document to the office of the judge assigned to the case.

(2) Trial briefs furnished to the Court shall first be served on opposing counsel, unless counsel shall have in writing (or orally upon the record at the pretrial conference) stipulated:

(A) As to what matters or material or content shall be included in the trial briefs to be submitted, and

(B) That each counsel on behalf of his client, waives the necessity of exchanging copies of his trial briefs.

(Amended January 27, 2010)

12(B) Faxed Documents

The Court does not allow faxed documents for filing with the Clerk of Courts. Copies of documents, letters, motions, memorandums of law, briefs, exhibits, affidavits, etc, shall not be faxed to the Court without prior approval of the assigned Judge. If approved, the judicial assistant will provide a courthouse fax number of where the document can be faxed.

(Amended May 6, 2013)

13. Stipulations to Hold Open Case Files

All stipulations to hold cases open shall provide for final disposition of the cases within State recommended Case Processing Benchmarks or shall include the court's express approval of the delay.

14. Exhibits

(A) Receipt of Exhibits in the Courtroom

Receipt of exhibits in the courtroom should be carried out using the following procedures:

1. Number the exhibits consecutively regardless of which party offers the exhibit.

EXAMPLE:

Plaintiffs	Exhibit 1
Defendants	Exhibit 2
Defendants	Exhibit 3
Plaintiffs	Exhibit 4

2. Place a label (or a tag for large, bulky exhibits) on each exhibit with the following information:

- * Exhibit number
- * Case number(s)
- * Date
- * Clerk's initials

3. When using stamps or stickers, be careful not to obliterate important portions of the exhibit or make it difficult to identify the exhibit as to case number, exhibit number, etc.

4. Do not use tags unless absolutely necessary, but when necessary, use a heavy tag rather than a slip of paper, which can easily become detached.

5. Place small exhibits in small fastener-type envelopes, marked properly and fastened (one exhibit to an envelope, if possible).

6. Mark filed papers as exhibits only when authorized by the presiding judge. Certified copies may be used as exhibits.

7. Only a deposition offered in whole or in part during a court proceedings should be marked as an exhibit. However, exhibits to a deposition may be marked as such.

8. Exhibits previously marked in another proceeding should be remarked.

9. If any exhibit is presented in a container, inquire if the container is to be included as part of the exhibit.

10. After an exhibit has been received (admitted into evidence), do not allow it to leave the possession of the clerk without a court order or until it has been determined that the case will not go to appeal, unless counsel moves to withdraw an exhibit and the court so orders. Denied exhibits may be returned to parties although the identification remains on the exhibit list. It is not necessary to store juvenile exhibits separately.

11. Maintain an exhibit list form containing the following information:

- * Date of Hearing/Trial
- * Date Judgment Filed
- * Case Number
- * Case Title
- * Attorneys' Names
- * Exhibit Description
- * Received
- * Offered
- * Withdrawn
- * Denied

(B) Storage of Exhibits During Trial

Storage of exhibits should be carried out using the following procedures; except as otherwise ordered by the Court:

1. Keep all exhibits in a locked security file in the courtroom during the trial.
Narcotics, weapons, money, valuable or sensitive materials should be secured in a file cabinet during court recesses, lunch hours, and at other times when exhibits are unattended by the courtroom clerk.
2. If a security storage cabinet or vault is not available in the courtroom, place narcotics, weapons, money, valuable or sensitive materials in the clerk of courts vault each night.
3. Oversized exhibits except for sensitive or dangerous items may be stored in the courtroom, if the courtroom is kept locked.
4. Keep denied exhibits and others to be withheld from the jury separate from the admitted exhibits during the trial.
5. Keep admitted exhibits in numerical order during the trial.
6. If counsel or the court takes an exhibit from the clerk during trial, the clerk shall make a note of the number of the exhibit and who has taken it.
7. If at the conclusion of the trial counsel stipulates and court approves, large and unwieldy exhibits can be represented by a photograph. The photograph shall be marked with the same information as the exhibit.

(C) Exhibit Coordinator

Assign a staff person (and alternate for larger courts) to act as an "Exhibits Coordinator" to oversee all exhibit policies and procedures; ensure proper labeling, storage and tracking; monitor retention periods and appeals progress; send notices to parties; transfer, return and destroy exhibits.

A key function of any exhibits coordinator should be to remind clerks of court and judges to have stipulations signed in court when the parties are present and to return exhibits immediately after trial, when possible.

It may be more appropriate to consider assigning a "criminal/traffic" exhibits coordinator and a "civil/small claims/family" coordinator, or some other variation, depending on the size, logistics and organization of the court.

(D) Managing Exhibits After Trial

Exhibits should either be returned, retained or disposed of after trial using the following procedures, except as otherwise ordered by the Court:

1. Retention Period for Exhibits (SCR 72.01(45),(46)

Both criminal and noncriminal case exhibits have one year retention after the time for appeal has expired, provided the exhibits have first been offered back to the parties that submitted them as evidence (or a signed stipulation releasing the exhibits had previously been acquired.) The time period to allow for appeals to be initiated is 120 days starting with the date of the final judgment or order.

To monitor retention for final disposition, use a computerized inventory and monitoring system to locate, track and dispose of exhibits, or use the copy of the law enforcement receipt as an indicator in a manual calendar or "tickler" system for timely disposal.

2. Handling of Exhibits After Trial

Standard policies and procedures for managing exhibits after trial should be established and applied in a routine, systematic manner in the normal course of the court's business.

a. Civil and Family Exhibits. At the conclusion of civil and family trials, ask the attorneys "on the record" whether they will stipulate to the release of all or a portion of the exhibits. If so, have each party sign a stipulation and order releasing exhibits (Form CF-102). If possible, have the stipulation signed in advance.

If the parties sign a stipulation regarding the exhibits, dispose of all exhibits in accordance with the stipulation after the mandated one year retention (allow 120 days for appeal period to expire). An exhibit that is returned to the parties immediately (within 30 days) after trial via the signed stipulation releases the clerk from the custodian obligation to store and retain the exhibit for the required period under SCR 72.

Notification of the State Historical Society is not required for exhibits to be destroyed.

b. Criminal, Traffic, and Juvenile Exhibits. At the conclusion of criminal, traffic, and juvenile trials, if there is an acquittal, inform the parties submitting the exhibits to remove them within 30 days or less. If there is a conviction, exhibits should be retained and stored in an orderly fashion in a locked vault or room at one location.

c. Withdrawn Exhibits. Exhibits that are withdrawn remain listed on the exhibit list (and the withdrawal noted), but are not retained by the clerk. This releases the clerk from the custodial obligation to store and retain the exhibit for the required retention period under SCR 72.

d. Denied Exhibits. Exhibits that are denied admittance into evidence remain

listed on the exhibit list (with the denial noted), and are retained by the clerk unless return to the attorney/party is specifically stipulated by the court.

3. Retention of Exhibits as a Result of an Appeal

If a case is appealed, maintain exhibits until a decision is rendered, then retain the exhibits for 120 days and one year from the date the appellate decision was rendered. Follow the same procedures for noticing parties as for exhibits from a trial court.

4. Retention and Disposal of Contraband Exhibits

Drugs, weapons and ammunition should be stored by law enforcement agencies after trial. Storage at law enforcement agencies is generally more secure and access better controlled. These exhibits, particularly drugs, are attractive to theft. Court employees are not trained to safely store and handle weapons and ammunition. Old ammunition may also be unstable.

a. When transferring exhibits to the custody of law enforcement agencies, get a receipt acknowledging transfer to their custody and file the receipt in the case file or manual "tickler" system, noting on the exhibits list where and when transferred.

b. After conviction, and after the appeal and retention periods have passed, weapons should be sent to the state crime laboratory or the sheriff's department for disposal. Drugs should be sent to the confiscating agency or sheriff's department for destruction. These steps are in compliance with s.968.20(3)(a)(b) and s. 161.55 of the statutes.

5. Deposition, Interrogatories and Other Discovery Material

Prior to July 1, 1986, depositions and other discovery material were required to be kept with the case file and comprised the greater volume of some court records. Depositions, interrogatories and other discovery material received prior to 7/1/86 should be purged and

handled as exhibits. After the related case has been disposed and the appeal period has passed, they can be offered back to the offering parties by personal or public notice and either returned or destroyed.

Relevant information contained in depositions, etc. is documented in transcripts and/or incorporated into the findings of fact and conclusions of law that result in a final judgment or order. This information is contained in the case file. Copies of depositions and interrogatories are also kept by the parties/attorneys involved.

As of July 1, 1986, the law requires original depositions, interrogatories, demands to admit, and other discovery materials be retained by the party(s) or attorney(s) who initiated the discovery. Judges should be encouraged, when possible, to accept on the record only the relevant information or material of such bulky records to reduce case volume and long term retention problems. An option is to remove these documents from the case file, cross-reference and store in inactive or "dead" storage and, if not marked as an exhibit, return to the offering party immediately (within 30 days) after trial.

6. Money as Exhibits

Money which is the proceeds of crime or drug sales must be forfeited to the state and/or county in compliance with s.161.55(5)(b) and s.945.10 of the statutes; and with regard to Article X, Section 2 of the State Constitution.

a. Gambling proceeds must be forfeited to the state school fund under s.945.10 of the statutes and Article X, Section 2 of the State Constitution. This can be accomplished by order of the judge with a copy of the order sent with the check to the State Treasurer as a separate submission from the regular monthly report.

15. Electronically Recorded Proceedings

1. All Court proceedings that are electronically recorded, shall be preserved on disk or

tape, and shall be safeguarded by the Portage County Clerk of Court. No duplicate copy of any disk or tape shall be made without a court order. If a party, member, or representative of the media, requests a transcript of a court proceeding that has been electronically recorded, an Official Court Reporter shall transcribe the court proceeding pursuant to Supreme Court Rule 71.05. The court reporter who prepares the transcript shall certify that it is a verbatim transcript of the electronic recording of the proceeding.

(Amended January 27, 2010)

16. Foreclosure Mediation

Portage County in cooperation with the Wisconsin Foreclosure Mediation Network offers a voluntary foreclosure mediation program to owners of residences (1 to 4 family) and mortgage lenders for the purposes of communication and discussion of settlement alternatives early in the foreclosure process with the goal of reducing the number of foreclosures through any alternatives to foreclosure that may be available.

Therefore, until further order of the Court, in all residential (1-4 family) foreclosure actions filed on and after the effective date of June 1, 2013, the plaintiff shall attach to the front of the summons served upon the defendant/mortgagor the following two forms reproduced on yellow paper:

- (1) Notice of Availability of Mediation
(as found on the Portage County Clerk of Court website –
<http://co.portage.wi.us/courts/clerkCourts.shtm>)
- (2) Mediation Request Form
(as found on the Portage County Clerk of Court website –
<http://co.portage.wi.us/courts/clerkCourts.shtm>)

The Notice of Availability of Mediation and a Program Description shall be made available on the website of the Portage County Clerk of Circuit Court.

(Created May 2013)

17. Preliminary Hearings:

During the Initial Appearance in felony matters, Preliminary Hearings shall be scheduled to be held in the intake court on the appropriate intake day at 3:00 p.m. It is anticipated that the Preliminary hearing shall take no longer than 20 minutes.

If the parties anticipate that the Preliminary hearing will take longer than 20 minutes, the parties, prior to the Initial Appearances, shall contact the Court assigned to the case, and schedule a date and time for the Preliminary hearing so that it may be communicated to the Intake Court at the Initial Appearance.

(added August 25, 2017)

RE: FAMILY COURT

1. Guardian Ad Litem Procedures: In cases where the Court deems it appropriate, an attorney acting on behalf of the best interests of the child or children in family law cases may be appointed as guardian ad litem for that child or children pursuant to Wis. Stat. 767.407.

(A) Appointing a Guardian ad litem in Family law Actions: The parties may seek a specific attorney to act as Guardian ad litem (GAL), or a GAL may be appointed by the court, but in all cases the proposed GAL shall be contacted prior to appointment. The order for appointment will indicate the allowed hourly rate. The Family Court Commissioner or Court may require a party to parties to submit a Financial Disclosure form to be completed prior to the appointment of a GAL.

(B) Deposit and Billing: Petitions for the appointment of an attorney to serve as a GAL in a family case shall be accompanied by a fee deposit of \$2,000.00 unless otherwise ordered by the Court. The Court, at its discretion, may order each party to contribute to such deposit and the amount of such contribution. This waiver pertains only to the deposit. This deposit shall be payable to the GAL, to be held in his/her trust account until such fees and expenses are approved by the court and payment ordered. If the rate charged by the GAL comports with SCR §81.02 then Portage County shall have concurrent responsibility with the litigants for compensating the GAL.

(C) Monthly billing and notice to the Court: Attorneys appointed to act as Guardian ad Litem may provide monthly billings to the parties. The Court shall be notified when the amount of the fees and expenses reach the deposit amount with such notice to include the estimated final billing to conclude the case. At that time the Court may order the parties to pay an additional deposit to the GAL; set up a payment plan with the GAL; or make other orders to ensure the payment of the guardian ad litem. The Court may also release all or part of the interim payment of fees and costs incurred by the Guardian ad Litem.

(D) Final Order Approving Fees of Guardian ad litem: Upon completion of the action the GAL shall submit a final bill to the Court itemizing time and expenses incurred and how much they have deposited to their trust account for this matter, any withdrawals made, and the total balance due. The GAL shall use the Portage County standard GAL Order for Payment form. This final billing shall be submitted to the court within ninety (90) days of the entry of judgment or order.

(E) Payment and Collection of Fees Owed: Upon approval of the bill by the Court, if the case is one in which Portage County has concurrent responsibility for payment, the Clerk

of Court shall pay the GAL all outstanding fees and costs, which shall not exceed the amount allowed under S.C.R. §81.02. The Clerk of Court shall then use all available methods to obtain reimbursement to the County from the parties. If the case is not one in which the County has concurrent responsibility for payment, (to be paid privately), the Court shall enter judgment against the parties for the amount owed in favor of the GAL (including docketing fee), and the GAL shall be responsible for collection of the debt.

(F) Subsequent Family Actions: If a subsequent action is filed that requires the appointment of a GAL, all fees owed must be paid in full prior to that appointment, unless the court waives that requirement.

(Amended January 5, 2017).

2. Domestic Abuse and Harassment Restraining Orders: All domestic abuse and harassment restraining orders shall be signed by the Family Court Commissioner unless unavailable. The Family Court Commissioner shall also conduct all hearings on such petitions, unless unavailable or a conflict exists.

(Amended September 14, 2007)

3. Mediation:

3A. Testimonial Privilege: Any counselor who mediates custody or visitation issues in family actions on order of the Family Court Commissioner shall be accorded a testimonial privilege under Sec. 767.081 (l) Stats.

3B. Mediation is required in all disputed custody or placement cases. In Order to promote an environment that is conducive to mediation, and to provide the parties with information that may aid in a successful mediation, the Family Court Commissioner shall order mediation in all disputed custody or placement cases only after each party has completed the Parents Forever Seminar and filed with the court proof of completion. A participant may request

waiver of mediation for danger or hardship at any time in the proceeding. The Family Court Commissioner shall determine waiver.

(Amended February 6, 2018.)

3C. Family Court Commissioner shall approve qualifications of all mediators prior to service. Minimum requirements:

- State certification
- Training on dynamics and effect of domestic violence

3D. Parties may hire a qualified private mediator subject to Family Court Commissioner approval. Without an agreement or approval, Family Court Commissioner shall assign mediator from Portage County list. County mediators must agree to work at the County's current contract, and complete one pro-bono mediation out of ten assigned cases.

3E. Before the assignment, each party must pay the mediator a deposit for one hour of service, and file a parenting plan and a Financial Disclosure Statement with Family Court Commissioner.

3F. Family Court Commissioner may waive or reduce the deposit requirement, and may require a payment plan on a wage assignment to recover any fees paid by County.

3G. County shall pay the mediator for the first hour of mediation. Thereafter the parties pay the mediator directly. Any unused balance of deposits shall be divided equally between parties and returned to poster.

3H. Mediators may request County reimbursement for fees incurred beyond the initial three hours, but the expectation is the matter will be resolved in the initial time period. If the County pays for any services beyond three hours, the parties shall reimburse the County for any expense incurred. Family Court Commissioner determines need for more mediation.

3I. Family Court Commissioner shall conduct a pretrial conference to discuss issues, and pragmatics of the court case. Family Court Commissioner shall determine impasse in mediation based on mediator's report and refer the matter for court proceedings. Family Court Commissioner shall appoint guardian ad litem from court list.

(Amended September 14, 2007)

4. Receiving and Disbursing Fees: Each party ordered to make payments for maintenance, child support, or family support under interim or final orders in an action affecting the family shall pay to the Child Support Enforcement Trust an annual receiving the disbursing fee of \$35.00. Only one fee shall be imposed on any individual payer for each case file.

Each annual fee payment shall be made at the time of, and in addition to, the first payment to the Child Support Enforcement Trust in each year for which payments are ordered.

Every party ordered to make payments of an annual receiving and disbursing fee shall be notified of the requirement to pay the fee and the amount of the fee by including the provisions concerning the fee in any subsequent written order.

Any stipulation under which a party is to make maintenance payments, child support or family support payments shall include the requirement to pay the annual receiving and disbursing fee.

In all actions affecting the family in which the court has, before the effective date of this rule, ordered an annual receiving and disbursing fee to be paid, the amount of the fee shall be the amount established by this rule, payable on the anniversary date of the first payment.

Future amendments to 814.61(12)(b), Wisconsin Statutes, are incorporated into these

rules as they become effective.

(Amended September 14, 2007)

5. Parents Forever Seminar: All parties with minor children are required to attend an educational program on the effects of divorce on children unless excepted by the Court is entitled "Parents Forever Seminar". The petitioning party must serve the other party with a copy of a Court Order requiring attendance at the educational program along with the Summons and Divorce Petition. Signed orders can be obtained from the Portage County Clerk of Court's office.

(Amended September 14, 2007)

6. Interim Disbursement Orders: Any person who is to receive a court ordered support, maintenance, costs or appearance payment, temporary or permanent, shall submit to the Court for signature a completed Interim Disbursement Order (FA-607) at the time of entry of the order. Forms may be obtained from the Clerk of Court's office for this purpose.

(Amended December 11, 1998)

7. Confidential Information: To protect individuals from identity fraud, the social security numbers of the parties and their children may be placed in a sealed envelope in the court file. The divorce or paternity petition, and the findings of fact, conclusions of law and judgment of divorce or paternity should then refer to the separate filing containing the social security numbers. All financial records and information, and health records shall be sealed and marked confidential to be opened only upon order of the Court.

(Amended February 4, 2004)

8. Certificate of Readiness: All non-represented parties to a divorce action shall obtain a Certificate of Readiness from the Family Court Commissioner prior to a stipulated final hearing or stipulated post judgment hearing; *or prior to a pre-trial conference in a contested divorce or*

post judgment divorce/paternity hearing. The Certificate shall be issued only after:

- a. Determining that petitioning party(ies) has (have) completed a review of guidelines concerning the advisability of proceeding pro se;
- b. Determining that all paperwork meets requirements and is appropriately completed. This includes but is not limited to: Financial Disclosure Statements, Marital Settlement Agreements, Proposed Marital Settlement Agreements (if contested), Certificate of Compliance with Parents' Forever Program and Proposed Findings of Fact, Conclusions of Law and Judgments, and;
- c. Determining that the petitioning party understands appropriate instructions concerning presentation of evidence to support the divorce petition at trial.

9.Family Law Information Center:

(A) New Divorce Actions: Non-represented parties to a divorce action may obtain the above referenced Certificate of Readiness from the Family Court Commissioner through the Family Law Information Center. The fees for providing such services through the Family Law Information Center are as prescribed below:

- i. \$100.00 for a non-represented petitioner
 - ii. \$100.00 for a non-represented respondent
 - iii. \$200.00 for non-represented joint petitioners.
1. These amounts include up to four (4) contacts with the Family Law Information Center, including one-on-one person conferences and emails and telephone inquiries requiring a response.

- iv. \$50.00 shall be charged after four (4) contacts per party.

Such fees are to be paid directly to the Portage County Treasurer. The Court may balance fees between parties in the final judgment based on ability to pay. The Court may waive fees in the case of indigency, at the discretion of the Court, or upon non-participation by a respondent. All such fees shall support the cost of operation of the Family Law Information Center.

(B) Post Judgment Divorce and Paternity Actions: Family Law Information Center shall charge \$100.00 per party for any of the following post judgment actions:

- i. Order to Show Cause to Revise Custody, Placement, Child Support of Maintenance;
- ii. Motions;
- iii. Contempt Actions;

The Family Law Information Center shall charge \$50.00 per any of the following or similar actions:

- i. Post Judgment Stipulations;
- ii. Change of Venue;

(C) Availability: The Family Law Information Center shall be available to all Portage County residents and participants in a Portage County divorce or paternity proceeding for assistance with regard to forms and procedures of the Portage County Family Courts. The Center does not provide legal advice or representation. The Family Court Commissioner will supervise the operation of the Family Law Information Center and provide appropriate notice of the availability of its services to the public.

(Amended 12-28-18. Effective as of 1-1-2019.)

RE: DE NOVO HEARINGS; PROCEEDINGS BEFORE COURT COMMISSIONER

Unless Wisconsin Statutes authorize otherwise,

Any party who was present at the **hearing** has the right to have the assigned judge hold a new **hearing** by filing a written request with the judge's clerk, with a copy sent immediately to the opposing party, within 15 days of the oral decision of the court commissioner or within 15 days of mailing of the written decision if the order was not orally given at the **time** of the **hearing**.

Notices requesting a **hearing de novo** will not stay the order unless the judge specifically grants a stay of the order. Should a party request a **hearing de novo**, the court will not proceed with any enforcement actions requested by the same party before that **hearing** e.g. the court will not grant a bench warrant and a commitment order requested by the petitioner, if the petitioner requests a bench warrant based upon the failure of the respondent to comply with the order upon which the petitioner has requested a **de novo hearing**. The court commissioner shall not **hear** any motions to modify an order or temporary order if the matter is pending a **de novo hearing** or if the trial has been held and the court has taken the matter under advisement. The order in existence will remain in effect until the court renders its decision.

(Amended June 27, 2012)

RE: SMALL CLAIMS COURT

1. Except in eviction actions, the service of a summons upon any resident of Portage County and all other actions under Chapter 799 Wis. Stats. May be by mail, pursuant to Sec. 799.12(3) Wis. Stats., or
2. All plaintiffs and defendants shall appear in person or by counsel at all initial return, joinder and pretrial hearings. If a defendant is a non-resident of the state of Wisconsin at the commencement, he or she may be permitted to join issue in any action specified in Sec. 799.01 Wis. Stats. without personally appearing on the return date provided that he or she file a written answer with the clerk of court, with a copy to the plaintiff, provided such answer is received and filed by the clerk prior to the return date.

3. The complaint in all actions commenced by service outside of Portage County shall contain allegations justifying venue in Portage County.
4. All parties shall be prepared to try all issues at the initial return hearing, with the exception of those actions referenced in subsection 5 below; initial returns on all other small claims matters shall be conducted before the Court Commissioner pursuant to Sec. 799.207 Wis. Stats. No stenographic reporting of proceedings held before the Court Commissioner shall be made. Rather, the clerk shall record as minutes in each such proceeding the time and location of the hearing, the identity of all the parties, witnesses, and attorneys appearing and shall indicate therein the decision reached by the Court Commissioner.
5. In eviction, garnishment or replevin actions in which a party appearing at the initial return claims that a contest or dispute exists, such matter shall be scheduled for a hearing before the Circuit Court, and in the case of an eviction action, not more than thirty (30) days after the initial return hearing.
6. Any party has an absolute right to demand a trial to the Circuit Court of any matter heard and decided by the Court Commissioner if such party files a written demand for trial with the Clerk of Court within ten (10) days from the date of the Court Commissioner's oral decision or within fifteen (15) days from the date of mailing of a written decision of the Court Commissioner, Except for default judgments entered by the Court Commissioner, which shall take immediate effect, the Circuit Court Commissioner's decision shall become a judgment eleven (11) days after rendering if oral, and sixteen (16) days after mailing if written, in the event neither party files a demand for trial to the Circuit Court.
7. At the conclusion of any matter heard and decided by the Court Commissioner, the Court Commissioner shall give each of the parties a form and instructions, which shall be used

for giving notice of a demand for trial before the Circuit Court. Timely filing of a demand for trial before the Circuit Court pursuant to No. 6 above shall result in a new trial before the Circuit Court on all issues between the parties.

8. Any order to show cause served upon a judgment-debtor seeking contempt for failure to comply with an order requiring disclosure of assets pursuant to Sec. 799.26 Wis. Stats. shall be personally served upon such judgment-debtor unless otherwise permitted or directed by the Circuit Court.
9. Actions for money judgment based upon accounts for materials or services or actions for money judgment or replevin based upon a note may be scheduled for a fast track procedure in the event the plaintiff expects the matter to default. The plaintiff shall identify the case as such by placing the letters "FT" on the summons in the location provided for the case file number. All cases so identified shall be scheduled at a separate time on the next available initial return date. Cases will be grouped and called in order by plaintiff's attorney or plaintiff.
10. Cases which the plaintiff does not expect to default should not be identified for fast track appearance. Continuing abuse or failure to comply may result in termination of the fast track procedure or an order barring its use by any individual plaintiff or attorney.
11. The plaintiff in all eviction actions filed in the Small Claims Court shall have prepared and ready for filing with the clerk on the return date scheduled in the action the following information: (a) proof of service of the complaint upon the defendant, (b) copy of lease signed by defendant, (c) written summary of rent received under the terms of said lease, the amount received and the dates received, (d) written summary explaining money

damages sought, and (e) copies of all notices terminating tenancy and proof of service of such notices.

12. In any small claims action in which the plaintiff alleges a claim of defective construction or remodeling of his or her dwelling pursuant to a written or oral agreement with a party who performed construction services and/or supplied construction materials relating to a resident dwelling or any existing structure at the plaintiff's resident premises (including work relating to driveways, sidewalks, swimming pools, terraces, patios, fences, porches, garages or basements) the plaintiff shall affirmatively allege in his or her complaint whether he or she has complied with all provisions of Sec. 895.07 Wis. Stats.

13. The plaintiff shall attach as exhibits to his or her complaint those notices, offers and proposals made by the plaintiff to the defendant and copies of all offers and proposals received from the defendant as required in Sec. 895.07(2) Wis. Stats.; that failure to comply with the provisions of 895.07 Wis. Stats. as required in this Order shall result in dismissal of the action without prejudice or entry of an order staying the proceedings pending compliance pursuant to Sect. 895.07(3) Wis. Stats.

(Amended May 12, 2017)

SMALL CLAIMS: SUMMARY JUDGMENT MOTIONS

14. This rule is intended to clarify the use of the summary judgment process in Portage County small claims cases. The intent of this rule is to allow expeditious resolution of commercial collections cases through the summary judgment process, while protecting the rights of unrepresented defendants.

Summary Judgment Process

Summary judgment shall be allowed in small claims cases only as follows:

1. The summary judgment process may be used only in collections cases in which the plaintiff is a business, such as cases involving credit cards, medical debt, and vehicle loans.
2. The summary judgment process may be used only by plaintiffs, and only when plaintiffs are represented by counsel and an e-filing party.
3. The summary judgment process may be used only if the plaintiff provides notice to the court that a summary judgment filing will be made, either:
 - a. By advising the clerk at the return date;
 - b. By contacting the clerk and scheduling a deadline and a motion hearing no later than 14 days after the initial return date; or
 - c. By providing written notice to the court no later than 14 days after the initial return date.
4. When providing notice, the plaintiff may request a deadline for filing the motion and supporting documents, which may be any date no later than 90 days from the return date.
5. Upon receipt of notice from the plaintiff, the clerk will remove any existing hearing date from the calendar and enter a scheduling order setting:
 - a. A deadline for filing of the motion and supporting affidavits;
 - b. A deadline for the defendant's response; and
 - c. A date for a motion hearing.
6. The deadline for the plaintiff's filing will be the date requested by the plaintiff, or, if no deadline is requested, 60 days from the return date. The deadline for the defendant's filing shall be 30 days from the deadline for the plaintiff's filing. The motion hearing date will

be the next regularly scheduled small claims hearing date following the deadline for the defendant's filing, or a later hearing date if requested by the plaintiff.

7. The scheduling order will include a summary judgment fact sheet prepared by the court explaining the process to the defendant.

8. When filing its motion and supporting documents, the plaintiff shall serve the documents on the defendant by mail and file an affidavit of mailing with the court.

9. Both parties may appear telephonically or by WebEx at the motion hearing. If the motion is denied, the court will use the hearing to schedule an in-person contested hearing for a later date.

(Added 8/3/2020)

RE: JUVENILE COURT

1. Victim Witness Coordinator

The Portage County Victim/Witness Coordinator shall provide notice to victims as required Sec. 48.346.

RE: JUROR SERVICE

1. Service

All jurors may be required to provide up to five days of service pursuant to Statute 756.28(2).

RE: COMPUTERIZED RECORD KEEPING

1. State Bar ID Number

In each case file, the initial pleading or document filed by an attorney on behalf of a client shall include the State Bar identification number of the attorney on the first page of the document.

RE: PROBATE

1.Electronic Signature

An interested party may sign a waiver of receipt electronically, even though it is a court document under Wisconsin Stats. 137.12(2m)(d), provided that the electronic signature otherwise conforms to Wisconsin's E-Sign Act, Wis. Stat. Sec. 137.11.137.26. Any person submitting an electronically signed waiver or receipt shall include with the document, as an attachment, the audit trail showing the date, time, and email address used to sign the document.

(added November 5, 2018)

2.Closing Certificate of Fiduciaries

Personal Representatives are required to file a Closing Certificate of Fiduciaries in Portage County Probate Court prior to closing any formal or informal estate proceeding where assets exceed \$50,00.00. The estate will not be closed without the Closing Certificate of Fiduciaries. Any request to waive this requirement must be made by filing a Petition for Waiver, or in an Informal Proceeding, by filing a Demand for Formal Proceedings.

(added November 5, 2018)

RE: UNPAID FINES/FORFEITURES

1. Fines, forfeitures, costs, surcharges, restitution, and/or attorney fees shall be paid within sixty (60) days of the sentencing hearing;
2. If the defendant needs more than sixty (60) days to pay, he/she shall establish a payment plan with the payment bailiff in the Clerk of Courts Office within thirty (30) days of the sentencing hearing;

3. The payment schedule established by the payment bailiff shall be based on the defendant's financial resources and ability to make payments;

4. If the defendant experiences a substantial change of circumstances making it impossible to comply with the payment plan, the defendant shall contact the payment bailiff to modify the plan;

5. If the defendant fails to pay the fine/forfeiture and costs within sixty (60) days, or fails to comply with the payment plan, the defendant shall be immediately sentenced for **contempt of court** to one (1) day in jail for each \$50.00 remaining on the fine, forfeiture, costs, etc.; serving time in jail for contempt does not eliminate or reduce the fine/forfeiture; the defendant is still responsible for the unpaid fine/forfeiture;

6. All defendants jailed for non-payment of fines/forfeitures, etc., will be afforded an indigency hearing before the Court Commissioner/Court, at the earliest available time.

(Amended December 14, 2012)

RE: SCHEDULING OF COURTROOM BY OUTSIDE JUDGES

Judges assigned to cases within Portage County shall coordinate their scheduling through the secretary or staff of the court branch to which they are assigned to obtain a courtroom assignment. In the event no such assignment is obtained, any case scheduled shall be considered subsequent in priority to those cases scheduled by the sitting judge.

(Amended February 7, 1995)

Dated and signed at Stevens Point, Wisconsin, this 25th day of September, 2020.

BY THE COURTS:

/s/
Thomas B. Eagon
Circuit Judge - Branch 1

/s/
Robert J. Shannon
Circuit Judge – Branch 2

/s/
Thomas T. Flugaur
Circuit Judge - Branch 3

Approved this 8th day of September, 2020.

//s//
Hon. Gregory Huber, Chief Judge
Ninth Jud. Admin. District

“Original on file”